

ORDINANCE NO. 06-2003

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, ESTABLISHING REGULATIONS FOR THE LOCATION OF NEWSRACKS IN THE TOWN; PROVIDING FOR DEFINITIONS; PROVIDING FOR STANDARDS FOR THE PLACEMENT OF NEWSPAPER RACKS; PROVIDING FOR STANDARDS FOR THE INSTALLATION AND MAINTENANCE OF NEWSRACKS; PROVIDING ENFORCEMENT PROCEDURES; PROVIDING PROCEDURES FOR ABANDONED NEWSRACKS; PROVIDING FOR THE REQUIREMENT OF A CERTIFICATE OF INSURANCE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, substantial growth in numbers of newspaper operators and newsracks in the Town has produced a significant increase in the number of newsracks installed in public rights-of-way; and

WHEREAS, the uncontrolled placement of newsracks in public rights-of-way presents concerns about the safety and welfare of persons using the rights-of-way within the Town, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services; and

WHEREAS, the installation and placement of newsracks in public rights-of-way have resulted in concerns by the public and Town officials with regard to safety, convenience and aesthetics thereof; and

WHEREAS, the Town Commission desires to impose such regulations to allow the safe passage of pedestrians, vehicular traffic and bicycle traffic on public rights-of-ways, public sidewalks and bicycle paths in the Town; and

WHEREAS, the Town Commission recognizes the importance of the freedom of the press to our democratic society and seeks in no way to restrain or abridge the

constitutional rights afforded by the Constitution of the United States or by the State of Florida; and

WHEREAS, the Town Commission does not seek to prevent the placement of newsracks on public property, but instead seeks to regulate the placement, installation and maintenance of newsracks so as to prevent nuisances and hazards; and

WHEREAS, the Town Commission's objective of safety and aesthetics are recognized as substantial governmental interests sufficient to permit reasonable regulation of the installation, maintenance, location and placement of newsracks; and

WHEREAS, the Town Commission finds it is in the best interest of the public and that there is a need to establish regulations regarding the installation, maintenance, location and placement of newsracks in, on and around public rights-of-ways; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, that:

Section 1. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Equivalent newsrack means any newsrack which is of the same size, dimensions and style of the specified newsrack.

If demand warrants or warranted demand means that the measured newspaper stack height needed to meet the newspaper publisher's or distributor's peak annual distribution at the requested newsrack location, as proven by the newspaper publisher or distributor, exceeds fourteen (14) inches.

Newsracks means any type of unmanned device for the vending or free distribution of newspapers or news periodicals.

Public right-of-way means any public street, highway, sidewalk, easement, parkway or alley.

Section 2. Purpose and Criteria. The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, type, appearance, servicing, and insuring of newsracks within the Town of Lake Park and upon public rights-of-way so as to:

- (1) Provide for pedestrian and driving safety and convenience.
- (2) Restrict unreasonable interference with the flow of pedestrian or vehicular traffic including ingress into or egress from any residence or place of business, or from the street to the sidewalk by persons exiting or entering parked or standing vehicles.
- (3) Provide for public and property safety during hurricane conditions.
- (4) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, mailboxes and access to locations used for public transportation purposes.
- (5) Relocate and/or replace newsracks which result in a visual blight and/or excessive space allocation on the public rights-of-way or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned newsracks removed.
- (6) Maintain and protect the values of surrounding properties.

(7) Reduce unnecessary exposure of the public to personal injury or property damage.

(8) Treat all newspapers equally regardless of their size, content, circulation, or frequency of publication.

(9) Maintain and preserve freedom of the press.

(10) Cooperate to the maximum with newspaper distributors.

Section 3. Certificate of Compliance Required. No person shall place, affix, erect, construct or maintain a newsrack without first obtaining a one-time only certificate of compliance from the Town for each newsrack in accordance with the provisions of this Ordinance.

Section 4. Application and Issuance of Certificate of Compliance.

(a) **Issuing Authority.** The issuing authority and coordinator shall be the Director of Public Works (the Director). The Director shall be responsible for fairly coordinating and administering the physical placement of newsracks of the type and location herein specified, and upon compliance herewith is responsible for issuing the certificates of compliance and Section 11(10).

(b) **Applications.** The applicant shall file a written application with the Director for a certificate of compliance which shall contain the following information:

(1) The name, address and telephone number of the applicant who is the owner and/or principal in responsible charge of the newsrack.

(2) The name, address and telephone number of a responsible person whom the Town may notify or contact at any time concerning the applicant's newsracks.

(3) The number of newsracks and the proposed location of each shown on a drawing to be provided to the Director.

(4) Names of newspapers or periodicals to be contained in each newsrack.

(5) Type or brand of newsracks, including an illustration and description of the newsrack and mount if other than a single pedestal, TK-80PM or K-80PM SHORACK or FN-80SP (with or without equivalent coin-box attachment) with special pedestal mount and fourteen-inch square base plate (mandated) or TK-80 or K-80 SHORACK or FN80LB (with of without equivalent coin-box attachment) with special pedestal mount and fourteen-inch square base plate (allowed only if demand warrants at the installation location), or equivalent, as per Section 9.

(c) Procedure. The Director shall:

(1) Develop a map which is to a large enough scale to show general locations of newsracks by each publisher or distributor within the Town's boundaries.

(2) Request a list of proposed newsrack locations, marked on the above map, from each distributor.

(3) Obtain confirmation approvals of the above approved newsrack drawings from each distributor.

(4) Mark placement locations on the map with a template so that installation crews can install newsracks in the appropriate locations.

(d) Issuance of Certificate of Compliance. Upon a finding by the Director that the applicant is in compliance with the provisions of this Ordinance and having received the required approvals, the Director shall cause to be issued a certificate of compliance for installation by the newspaper publishing company. Such issuance shall be made within five (5) working days of the Town's receipt of the completed application.

(e) Denial of Certificate of Compliance. If a certificate of compliance for some newsrack location applied for shall be denied, the applicant shall be notified within five (5) working days of the Town's receipt of the completed application. The applicant shall be advised of the specific cause of such denial by the Director, who will suggest alternative locations therefor. The applicant may reapply for substitute alternative location at no additional certificate of compliance fee.

(f) Additional Certificate of Compliance. If at any time initial application for an installation certificate of compliance a publisher wishes to install additional newsracks, then subsections (c) and (d) above are to be repeated in accordance with the provisions of this Ordinance. Under Section 4, any additional returnable bond deposit required will credit any amount still on account. Additional certificate of compliance fees shall be in accordance with Section 5 except that the fifty dollar publisher's fee is waived if previously paid.

Section 5. Insurance.